



Attorney Docket No.: P-7339-US

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

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|---------------|--|-----------------|---------------------------|
| Applicant(s): | LEVY, Andrew   | Examiner:       | GOLDBERG, JEANINE<br>ANNE |
| Serial No.:   | 10/748,177   | Group Art Unit: | 1634                      |
| Filed:        | December 31, 2003  |                 |                           |
| Title:        | METHOD OF PREDICTING A BENEFIT OF ANTIOXIDANT THERAPY<br>FOR PREVENTION OF CARDIOVASCULAR DISEASE IN<br>HYPERGLYCEMIC PATIENTS |                 |                           |

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**RESPONSE TO RESTRICTION REQUIREMENT**

Mail Stop Amendment  
Commissioner for Patents  
P. O. Box 1450  
Alexandria, VA 22313-1450

Madam:

This Communication is filed in response to the Restriction Requirement dated September 30, 2005 issued by the United States Patent and Trademark Office in connection with the above-identified Application. A response to the September 30, 2005 Office Action was due October 30, 2005. Applicants are concurrently filing a Petition for a One-Month Extension of Time, including the required fee. Therefore, a response is due November 30, 2005. Accordingly, this Amendment is being timely filed.

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Applicants elect with traverse to prosecute claims 12-14 and 26-28 of Group II drawn to method for determining a potential of a diabetic patient to benefit from anti-oxidant therapy by determining polypeptide phenotypes.

Claims 6-11 and 20-25 of Group I, drawn to method for determining a potential of a diabetic patient to benefit from anti-oxidant therapy by determining nucleic acid phenotypes, is withdrawn at this time.

Claims 29 of Group III, drawn to a kit for determining haptoglobin phenotype and instructions, is withdrawn at this time as well.

In the Office Action, the Examiner noted claims 1-5 and 15-19 link inventions I and II; and that the restriction requirement between the linked inventions is subject to the non-allowance of the linking claims, claims 1-5, 15-19. Upon the allowance of the linking claims, the restriction requirement as to the linked inventions shall be withdrawn and any claims depending from or otherwise including all the limitations of the allowable linking claims will be entitled to examination in the instant application.

For the reasons above, it is respectfully asserted that this restriction requirement is improper, and withdrawal is respectfully requested. All claims of Groups I and II and linking claims 1-5 and 15-19 should be examined together.

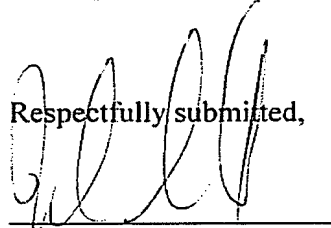
Applicants reserve all rights in these non-elected claims, claims 12-14, 26-28, 29 and linking claims 1-5 and 15-19, to file divisional and/or continuation patent applications.

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If the Examiner has any questions or comments as to this response, the undersigned may be contacted at the address and telephone number below.

Please charge any fees associated with this paper to deposit account No. 50-3355.

Respectfully submitted,



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Dated: November 28, 2005

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